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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,817	03/31/2004	Patrick J. Gibbons	P00870-US-00 (11049.0013)	5036
31835	7590	05/16/2006	EXAMINER	
RUSSELL E. FOWLER, II ICE MILLER ONE AMERICAN SQUARE, BOX 82001 INDIANAPOLIS, IN 46282-0002			COLLINS, DOLORES R	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/813,817

Applicant(s)

GIBBONS ET AL.

Examiner

Dolores R. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

Examiner acknowledges response by applicant's representative received  
2/21/06.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that  
form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public  
use or on sale in this country, more than one year prior to the date of application for patent in the United  
States.

Claims 1, 11 & 12 are rejected under 35 U.S.C. 102(b) as being anticipated by  
Bernstein et al. (410).

Bernstein discloses Trading Cards For An Investment Game And Method  
Thereof.

Regarding claims 1

Bernstein teaches a plurality of game cards (trading cards) (see abstract)  
with a face and a reverse side (11) & (12), a type of customer information (a

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company called Metacortex, stock information) and a customer loyalty information (stock performance).

Regarding claim 11

Bernstein teaches a variety of customer information on the reverse side (see fig. 1).

Regarding claim 12

Bernstein teaches a variety of customer information on the reverse side (see fig. 1), including the number of employees worldwide (size) and product (software industry).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-10 & 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Bernstein et al. (410).

Bernstein discloses Trading Cards For An Investment Game And Method Thereof.

Regarding claims 2-10 & 13

Bernstein teaches a plurality of game cards (trading cards) (see abstract) with a face and a reverse side (11) & (12), a type of customer information ( a company called Metacortex, stock information) and a customer loyalty information (stock performance). Bernstein teaches a variety of indicia (numbers, percentages, letters etc.), which could be indicators and/or symbols defined as anything desired and having any intended use. It would have been obvious to one of ordinary skill in the art at the time the invention was made to assign the symbols and indicators of Bernstein to any group of indicators or symbols as desired. Such would be intended use and presents little or no patentable weight.

***Response to Arguments***

Applicant's arguments filed 2/21/06 have been fully considered but they are not persuasive. Applicant has 13 apparatus claims and has made no amendments to these claims. Applicant argues that the customer loyalty indicator of his invention is not taught by Bernstein et al. (410). Examiner disagrees with applicant's arguments since applicant is only claiming cards with various symbols/indicia which would be considered printed matted and, as such, given no patentable weight.

Applicant further argues that the cited reference is non-analogous art. Examiner again disagrees with applicant because both Bernstein and applicant's invention teach playing cards for card games.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is **(571) 272-4421**. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***Eugene Kim*** can be reached on **(571) 272-4463**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



5/12/06



**STEPHEN BLAU**  
**PRIMARY EXAMINER**